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MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 30th April 1959

S.O. 997.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Nagpur in the industrial dispute between the employers in relation to the Jhagrakhand collieries and their workmen.

BEFORE SHRI P. D. VYAS, JUDGE, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR AT BOMBAY

REFERENCE (CGIT) No. 9 of 1957

An Adjudication between

The management of Jhagrakhand Collieries (Private) Ltd.,

AND

Their Workmen represented by the Chhattisgarh Colliery Workers' Federation.

In the matter of an industrial dispute relating to wages for boring holes, for lead, etc.

APPEARANCES:

Shri B. Narayanaswamy, Advocate—for the management.

Shri R. L. Malviya, M. P.—for the workmen.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Central Government was pleased to refer an industrial disputes between the employers in relation to the Jhagrakhand Collieries (P) Ltd., and the workmen for adjudication by the Government Order No. LRII-II-2(40)/58 dated 1st August, 1957. The dispute relates to the matters specified in the schedule annexed to the said Government Order.

THE SCHEDULE

- (1) Are the workmen of the Jhagrakhand Collieries entitled to wages for boring holes and for lead from the date of enforcement of the Korea Award or from any other date and, if so, at what rates and from which date are they to be paid?
- (2) Are the workmen of the said collieries entitled to wages on the basis of 'hand cut' coal as fixed in the Korea Award? If so, from which date should such wages be paid?

2. On the usual notices being issued, the General Secretary, Chhattisgarh Colliery Workers Federation has filed the statement of claims on behalf of the workmen and the Managing Director of the Jhagrakhand Collieries (P) Limited (referred to hereinafter as employers or Company) has filed the written statement on its behalf.

3. The case on behalf of the workmen is that the wages to be paid to the workers employed under the company in its collieries situated in Korca Coal Field were governed by the provisions of Korea Award with effect from 1st November 1947. The coal cutters who were required to make holes by hand had to be paid separate rate for making holes as per terms of the said award. The workers of the Company's South Jhagrakhand Colliery were required to make holes by hand with the aid of crow-bars but they were not paid any separate rate of wages as they were entitled to under the Korea Award. They were required to bore holes of 3 ft. to 4 ft. deep by hand with the aid of crow-bars and for such operations they were required to be paid at the rate of at least one anna per ft. but no such payment has been made. They were required to make holes by hand in all pillar cutting areas of the mine at South Jhagrakhand Colliery and therefore the workers concerned should be paid separate wages for making holes by hand at least at the rate of one anna per foot with retrospective effect.

4. On the point of lead, the workers' case is that for this also they were entitled to separate wages under the provisions of the Korea Award. In the Jhagrakhand Collieries there happened to be a long lead from 200' to 300' but the workers were paid only Annas 2 for lead per tub of 37 cft. at South Jhagrakhand Colliery and 30 cft. at North Jhagrakhand Colliery. The workers were however entitled to get wages for lead at a higher rate. On an average they used to carry coal to fill it into the tubs to a distance of at least 200 ft. from the working faces. These workers should therefore be paid wages for lead according to the terms of Korea Award with retrospective effect atleast on an average of 200' per tub.

5. As regards hand cut coal, the workers' case is that according to the terms of Korea Award they were entitled to get separate wages for coal cutting operation at the following rates:

- (a) Re. 1 (Rupee one)—basic for 100 cft. in case of machine cutting.
- (b) Re. 1 (Rupee one)—basic for 45 cft. in case of solid blasting, and
- (c) Re. 1 (Rupee one)—basic for 25 cft. in case of hand cutting.

In Jhagrakhand Collieries the workers were required to obtain coal by hand cut operation but they have not been paid wages at the rate laid down in Korea Award for hand cut operation. For such hand cut coal, they have been paid the rate of machine cut operation. The hand cut operation was made in all pillar cutting sections of the Mine in Jhagrakhand Collieries. They should therefore be paid the rate of hand cut operation with retrospective effect according to the rate prescribed in the Korea Award.

6. The case on behalf of the management is that what is called the Korea Award is a notification dated 15th November, 1947, issued by the then Korea State Government. In the strike notice dated 4th February, 1955 prior to the present reference, the complaint of the workers' Federation was non-implementation of the said Korea Notification dated 15th November, 1947, alleged to be the Korea Award. The dispute regarding non-implementation of an alleged Award is not an industrial dispute and as such this Tribunal has no jurisdiction to adjudicate upon the same. The said notification dated 15th November, 1947, issued by the then Korea State Government was not binding in law nor had any legal effect and as such confers no right on the workmen. In case the said notification is held binding then the claim of the workmen based on non-payment by the Company of their alleged dues would not amount to an industrial dispute as defined in the Industrial Disputes Act.

7. As regards boring holes, it is admitted by the Company that in the said notification dated 15th November, 1947, there is a provision that coal cutters who are required to drill holes by hand are to be paid for separately and it does not dispute the rate for making holes by miners with the aid of crow-bars. But the company alleges that it maintains a sufficient number of departmental drillers to drill holes and the miners are not required to bore holes. If ever the miners were to bore holes it could be so done only with the permission of the management in view of the fact that the use of explosives is permissible under the control and supervision of the management. To the knowledge of the management

the miners were never required to bore holes and the departmental drillers who did this work were the time rated workers working with electric drill or hand operated conque or drills.

8. In the matter of lead the company denies that the lead in the Jhagrakhand Collieries was from 200' to 300' long and alleges that it varied from day to day and place to place, the average lead per tub being less than 100' and not more than 200'. These variations presented difficulties in making calculations and so in or about 1948 it was agreed between the company and the workmen's representatives including the President of the Federation before the Conciliation Officer that an average of Annas 2 per tub irrespective of the length of the lead would be paid on all tubs loaded by the loaders. The arrangement has been found to be satisfactory during all these years and the dispute was raised for the first time in the aforesaid strike notice dated 4th February, 1955.

9. With reference to hand-cut coal the company alleges that the expression 'hand-cut coal' is misleading. In the Korea Notification there are two descriptions of cutting coal, (1) machine cutting and (2) hand cutting and different rates have been prescribed for the same. Both these rates relate to coal cutters who cut coal by hand. The description machine cutting indicates cutting by hand of coal which is left over on the floor, roof and sides of the gallery after an operation of the coal cutting machine and blasting is over. The description hand cutting indicates cutting of coal by hand in the compact coal face of a gallery. The workmen who work the coal cutting machine or do the job of explosion are time-rated departmental labour and not coal cutters and they have nothing to do with the rates stated in the Korea Notification. For cutting coal by hand in the compact coal face of a gallery, the company paid the coal cutters the same rate as laid down in the Korea Notification for hand cutting. The alleged claim of the workers seems to be in respect of depillaring coal but in the Jhagrakhand Collieries the conditions for winning of coal by the miners in de-pillaring areas of the mine are particularly easy and miners naturally prefer to work in depillaring areas where with the existing rates they earn more than in the machine cut galleries. In the Korea Notification there is no mention of rates for pillar cutting and it being easier to get coal in the de-pillaring areas than from machine cutting areas, the company was justified in paying the rates applicable to machine-cut areas to the workmen working in the de-pillaring areas.

10. The company thus submits that the claim of the workmen in all respects should be rejected with costs.

11. The claim of the workmen regarding separate wages for boring holes, for lead and for hand cut coal has been advanced on the strength of what is popularly known as Korea Award. It appears that on 15th November, 1947, a notification of the same date was published in the Korea State Gazette Extraordinary on the subject: "Wages of colliery workers." It was a notification issued by the then Korea State Government in the circumstances stated in its preamble: "Whereas there has been a general rise in the prices of essential commodities necessitating a positive policy to bring about an improvement in the conditions of workers in the coal mining industry; And whereas the wages of colliery workers have been increased in the coal-fields of Bengal, Bihar, Orissa, C.P. and Birar which are bound to have repercussions in the coal-fields of Korea State; Now, therefore the Korea State Government after a careful consideration of all factors affecting the industry in the State and in order to assure minimum wages to colliery workers hereby orders as follows." The provisions made in this notification and especially those affecting the subject-matter of the present dispute will be considered later but for the time it may be mentioned that it is this notification dated 15th November, 1947, issued and published by the then Korea State Government which is popularly known as the Korea Award. Calling it—Notification or Award, the company denies its binding effect in the circumstances stated in its written statement and Shri Narayanswamy reiterated the same contentions on the company's behalf at the time of the hearing. This question however has already been decided in a previous reference between the parties. In an appeal against the award in the said reference, being Appeal (Bom) No. 139 of 1956 between the workers of Jhagrakhand Collieries, Limited represented by the Chhattisgarh Colliery Workers Federation and the employers in relation to the Jhagrakhand Collieries, Limited, the question has been fully dealt with by the Labour Appellate Tribunal in its decision dated 13th May, 1958. There the dispute referred for adjudication was:

"Are the workmen of the Jhagrakhand Collieries who were not entitled to any increase in wages under para. 1 of the Notification issued by the Korea State Government, dated the 15th November, 1947, entitl-

ed to any increase in wages in accordance with paragraph 2 therof, and if so, to what extent and from which date such increase should be allowed."

All the points raised by the company have been discussed in paragraphs 11 to 18 of the said decision and the Appellate Tribunal came to the conclusion that the Korea Award is valid and binding upon the concern i.e., the Jhagrakhand Collieries (P) Limited. It is not open to the company to re-agitate the same question in the present reference and in fact the company has already filed an appeal in the Supreme Court against the said decision of the Labour Appellate Tribunal. The parties will have to abide the result of the said appeal and the fate of any award made in the present reference will obviously depend on that result.

12. The next point raised on behalf of the company is that the claim being in the nature of an implementation of an award and having been based on non-payment of the alleged legal dues does not amount to an industrial dispute so as to form the subject-matter of a reference under the Industrial Disputes Act, 1947. The subject-matter of the present reference, as shown above, is whether the workmen of the Jhagrakhand Collieries are entitled to certain wages for doing certain operations on the basis of the Korea Award and if so from what date. The term industrial dispute is defined in S.2(k) of the Industrial Disputes Act and it means *inter alia* any dispute or difference between employers and employees which is connected with the terms of employment. The dispute in the present case is not merely in the nature of implementation of an award, inasmuch as the Korea Notification though popularly known as Korea Award is not an award as commonly understood or as defined in the Industrial Disputes Act. It is a notification issued and published by the then Korea State Government in the circumstances stated above. If the employers deny the binding effect of the Korea Notification and their liability to pay according to the rates prescribed in the said notification for certain operations, it means that there is a dispute between the employers and their workmen on the terms of their employment which according to the workmen, in so far as their wages are concerned, should be governed by the provisions of the said notification for a certain period with effect from 1st November 1947. This question before us is not regarding satisfaction or non-satisfaction of a claim. What is disputed is the very basis of the claim and the difference between the parties does amount to an industrial dispute within the meaning of the Act. The reference is therefore perfectly valid and this Tribunal has got jurisdiction to adjudicate upon the dispute forming subject-matter thereof.

13. Demand No. 1.—This demand relates to wages for boring holes and for lead and we shall first take up the question of boring holes. The clause 1 of the Korea notification prescribes certain rates for piece-rated workers including coal cutters and at its foot under note No. 1, holes required for drilling are to be paid for separately. According to the workmen coal cutters in South Jhagrakhand Colliery were required to make holes by hand with crow-bars and they were entitled to be paid separate wages at least at the rate of one anna per foot. It seems that this making of holes by hand was done in all pillar cutting sections of the mine at South Jhagrakhand Colliery. The company does not deny the provision made in the Korea Notification for separate payment in respect of drilling of holes by hand but according to it the miners were never required to bore holes and for this purpose it used to maintain a sufficient number of departmental drillers. If we refer to para. 9 of its written statement the company itself is unable to make a categorical statement in definite terms that the miners never did the work of boring holes. We just find a vague allegation there that "to the knowledge of the management the miners were never required to bore holes."

14. The claim in respect of boring holes applies only to South Jhagrakhand Colliery and on behalf of the workmen it was pointed out that before 1951 there were no departmental drillers in employment and all such work was done by miners. The Company alleges to have maintained a sufficient number of departmental drillers but the exact number together with the quantum of work has not been specified in order to show if it was really sufficient. I was told that on 26th May 1956 there were only 10 drillers and the same is the number now; an attendance register of 1954 indicates that about 9 to 11 drillers were working during the period from 11th February 1954 to 17th October 1954; and there were in all 4 working districts in the colliery. The labour's case is that one hand drill requires 4 persons and one electric drill requires 2 persons. It was thus argued on the worker's behalf that even according to the information supplied by the Management, 2/3rd of the holes were bored by miners, inasmuch as the alleged employment of the departmental drillers was just sufficient to do only 1/3rd of

the work and that too from 1951 onwards. Before 1951 the holes were bored exclusively by miners and the holes bored can be ascertained from the number of tubs raised. The workman's witness Shri Ibrahim Khan has deposed that miners used to make 6 holes for one operation. The rates agreed to between the parties on 8th March 1954 according to labour were 9 ps. per foot for holes up to 3 feet and one anna per foot for holes of more than 3 feet—but they would be satisfied if they were paid at the flat rate of 9 ps. The employers on the other hand totally deny the claim on the alleged ground that the miners were never required to bore holes.

15. In my opinion the story of total denial advanced on behalf of the employers cannot be accepted and there can be no doubt in view of the evidence on record that the miners did bore holes and were entitled to be paid separately with effect from 1st November 1957 according to the Korea Award. If really the miners never did the work of drilling holes by hand, where was the occasion for the Head Office to write the letter dated 15th March 1954 as per Ex. U-16 which states *inter alia* that "the miners who drill the holes by hand should be paid at the following rates:

(i) For holes upto 3 feet—9 ps. per foot.

(ii) For holes longer than 3 feet—1 anna per foot."

These are exactly the rates mentioned by the workmen under the agreement dated 8th March 1954. The copy of the agreement has been produced as Ex. C.7 by the management in the reference No. 13 of 1957 between the parties which has heard along with the present reference. Consequent upon the strike notice dated 4th February 1955 served on the management of the Jhagrakhand Collieries Limited by the Chhattisgarh Colliery Workers Federation, there were joint inquiries held by the labour authorities and if we refer to the remarks under the demand No. 3 in the report dated 9th June 1955 Ex. U-18, we find there definitely stated that in South Jhagrakhand Colliery, the miners were required to make holes by hand but no payment was made to them for this work. The aforesaid agreement dated 8th March 1954 regarding the rates relied on by the Union is also there referred to. Not only this but we further find that it was not the management's say then that the miners of South Jhagrakhand Colliery were never required to make holes by hand. What the management then said was that it was prepared to pay to those who had bored holes and had not been paid if such cases were brought to its notice. In view of this stand of the management, it has there been rightly pointed out that it was the duty of the management to make payments for the holes made by the miners and it was its responsibility to keep a record of the holes made by the piece-rated miners in a measurement book and hand over a statement to the miners of the work done by them as per the procedure laid down in rule 17 of the Payment of Wages (Coal Mines) Rules, 1949. In the result of the said inquiries the Union was held justified in demanding payments for the holes made by the miners of South Jhagrakhand Colliery with retrospective effect and it was observed that in the absence of the necessary records the average holes made by the miners by hand should be found out in consultation with the Union.

16. Thus the management's story of wholesale denial deserves no weight. The remarks of Mr. Hearn, Agent & Mining Engineer in his letter dated 24th August 1955 to the Managing Director on the point of boring holes cannot be readily accepted as true in face of the aforesaid report on the joint enquiries made by the independent labour authorities. It is this gentleman who seems to be at the root of the whole dispute between the management and the labour and he has not come forward to give any evidence before us. If we refer to the affidavit of Shri Srivastava the Manager of the South Jhagrakhand Colliery, he has in para. 5 thereof totally denied the fact of miners having ever bored holes and this is the management's case. In his cross-examination (at page 4) he has stated that in South Jhagrakhand Colliery the holes were made by the departmental drillers and the miners do so since May 1956. Shri Bhattacharya in his cross-examination alleges that there is record to show that departmental drillers were working prior to 1951. He is the manager of the North Jhagrakhand Colliery and we do not know whether his statement refers to North Jhagrakhand Colliery or South Jhagrakhand Colliery. The claim in regard to boring holes is confined only to South Jhagrakhand Colliery. If it is his say that in South Jhagrakhand Colliery there were departmental drillers prior to 1951, we have no documentary evidence on record to support his *ipse dixit*. Looking to the circumstances of the case and evidence on record there can be no doubt that the miners did the work of boring holes exclusively up to the year 1951 and there were no departmental drillers as such for this work. Sometime thereafter a few departmental drillers were engaged but their number was not quite sufficient and the miners did

continue to do the work of boring holes. The holes bored can be ascertained from the number of tubs raised or in such other manner as agreed between the management and the Union and I direct that the miners shall be paid separately an additional amount for boring holes at the rates referred to above, viz. 9 ps. per foot for holes upto 3 feet and one anna per foot for holes of more than 3 feet during the period the Korea Award remained in force, i.e. from 1st November 1947 to 26th May 1956. The labour may accept payment at a common rate of 9 ps. per foot if so satisfied as stated before me.

17. Coming to the next question of lead, that the miners did this work has not been disputed. The only point in dispute is whether the miners have already been paid at the alleged agreed rate. Shri Das Gupta, an Accountant of the Company has made an affidavit that from about November 1947 to about 25th May 1956 lead at a flat rate of Anna 2 per tub was paid on all tubs loaded by the underground loaders of North & South Jhagrakhand Collieries. On the point of lead there is a provision made in clause 5 of the Korea Award laying down varying rates for lead & lftl according to the distance. Shri Malavlya on behalf of the workmen relying on this provision in the clause 5 of the Korea Notification as well as the result of the joint inquiries of the labour authorities as mentioned under the demand No. 4 in the aforesaid report Ex. U-18 dated 9th June 1955, urged that they should be paid at the rate of Annas 6 per average lead upto 150 feet. The demand in respect of lead is being made since so early as 27th October 1948—vide Ex. U-4 and the management in not denying the claim has merely alleged the satisfaction thereof at an agreed rate of Annas 2. If we refer to Ex. U-19 (Minutes of discussions on the report of the Junior Labour Inspector) under the demand No. 4 clause (ii), we find it stated: "the management agreed to the correctness of the distances of lead recorded by the Junior Labour Inspector in his report of North Jhagrakhand Colliery except item No. 1, viz. 128 level No. 5, Dist. 1 South Panel (depillaring), where according to the management the distance was less than a pillar and not two pillars. With regard to South Jhagrakhand Colliery the measurements recorded by Junior Labour Inspector are admitted as correct." It is true that the management then disagreed on the basis of working out an average rate of payment. But as stated there, the management had not maintained record of distances as required under Rule 17 of the Payment of Wages Act (Coal Mines) Rules 1949, because according to it lead payment on uniform average rate was being made. Then if we refer to the Report of the Regional Labour Commissioner (c) dated 7th November 1956 Ex. U-20 there on the question of lead under the point No. 4 at page 3 the rate prescribed in the Korea Award have been mentioned and then after stating what the workers case is, we find the following remarks:

"The management is paying an average lead of Annas -/2/- per tub on all tubs irrespective of the distance and they contend that they are paying at this rate as agreed to between them and the Union some years ago..... They argue that there was some verbal understanding between the Union and the management regarding the payment on the basis of average lead in the presence of the then Regional Labour Commissioner Mr. Ahluwalia. The Federation representatives, however, emphatically deny this statement of the management and they press that they should be paid on the basis of Korea Award with retrospective effect. It seemed to me that the claim of the workmen does not seem unjustifiable and the verbal understanding (which is even denied by the Union) should not be taken as a ground to put the workmen in perpetual financial loss."

18. The Junior Labour Inspector in his report to Regional Labour Commissioner dated 1st September 1956—Ex. U-21 has stated under demand No. 4—at page 2:—"in the minutes of discussions on the report of the Junior Labour Inspector held by the Conciliation Officer (C), Jabalpur on the 8th November, 1955, the management have agreed to the correctness of the distances of lead recorded by me in my report. It is also admitted by the management that record of distances as required under Rule 17 of the Payment of Wages (Coal Mines) Rules, 1949 was not maintained. When the management admits that the distance of lead exceeded 100 feet they should admit that they had not properly implemented provisions of para. of the Korea Award..... For working out the average for payments to the workers I would like to suggest that the management should treat the payment @ Annas -/2/- per tub for lead as a basic payment, and pay a dearness allowance of Annas -/2/- with retrospective effect. I may mention here that the management were not taking the payments for lead for calculating bonus and provident fund....." though it was then felt by the Junior Labour Inspector that perhaps the Union would not agree to his suggestion, according to him the employers should agree.

Shri Malaviya at the time of the hearing told me that the Union did agree to his suggestion for working out an average but the management did not. For the payment by the management at the rate of Annas 2/- on the basis, of an alleged agreement, there is no satisfactory evidence as to who so agreed and when and there are conflicting versions in this connection. If really there was any such agreement, there is no reason why the same was not put in writing.

19. I thus direct that in the first place if the management has got record, then they should pay the differences on the lead according to the distances at the rates laid down in clause 5 of the Korea Award. If no such records are forthcoming, then the question arises as to the method of payment to be followed. In case the Union and the management jointly evolve some method of payment the same may be followed, otherwise in the circumstances of the case it would not be proper that the workers' claim should altogether fail because the management has chosen not to maintain the necessary records. In that case the average lead of 150 feet may be taken as the basis as shown at page 4 of Ex. U-18. The rate fixed *inter alia* under the Korea Award is: 150'-200' Annas 5/-. The rate for lead of 150 feet is thus Annas 5/- and the management having paid only at the rate of Annas 2/-, the workers are entitled to claim the difference of annas 3/- or 100 per cent D.A. that is in all annas 6/-. I, therefore direct that in the absence of aforesaid alternatives, the management shall pay the difference to which the workers are entitled in the basis as well as D.A. i.e. at the rate of Annas 6/- on an average of 150 feet of lead during the period 1st November 1947 to 26th May 1956.

20. Demand No. 2.—This demand relates to hand-cut coal for which we find the following provision in clause 1 of the Korea Award:

Coal Cutters:

- (a) Underground—at a rate of Re 1/- per
 - (i) 100 cft. in case of machine cutting.
 - (ii) 25 cft. in case of hand cutting.
 - (iii) 45 cft. in case of solid blasting.

Thus the underground coal cutters in case of hand cutting are entitled to be paid at the rate of Re. 1/- per 25 cft., whereas the management has paid at the rate prescribed in the case of machine cutting, viz. Re. 1/- per 100 cft. The present claim is therefore in respect of the differences between hand cutting and machine cutting rate in depillaring areas during the period the Korea Award remained in operation, i.e. from 1st November 1947 to 26th May 1956. The Company in its written statement has tried to give its own interpretation regarding the provisions in the Korea Award in prescribing the rate for machine cutting and hand cutting and according to it the higher rate applies only to cutting coal by hand in the compact coal face of a gallery. As according to the company it is easier to get coal in the depillaring areas than from machine cut areas in the Jharkhand Collieries, it was justified in paying the rate applicable to machine cutting areas to the workmen working in depillaring areas. Thus according to its own case, for the depillaring areas the company has not paid the higher rate of hand cutting but has paid only the lower rate applicable to machine cutting.

21. It was in answer to the Union's letter Ex. U-10 addressed to the Agent & Mining Engineer that in the Ex. U-11 the management has tried to justify the lower payment showing how the process in depillaring is easier. The President of the Union sought clarification in this connection from the Chief Inspector of Mines—vide the correspondence as per Ex. U-13 and Ex. U-15. The point has been considered in the report of the Regional Labour Commissioner (C) dated 7th November 1956—Ex. U-20 at pages 1 and 2. It appears from Ex. U-20 that there is no depillaring operation in West Jharkhand Colliery and the question before us arises in respect of the South Jharkhand Colliery and North Jharkhand Colliery as to whether in depillaring sections machine cutting rate should be paid or hand cutting rate should be paid. In the said Ex. U-20 under the point No. 2 at page 2, we find that the labour authorities on inquiry considered the claim of the Union for payment at hand cut rate for the work done by the miners in depillaring section as justified. It is in evidence that in the depillaring operation all coal is extracted with hands and no explosive is used. The correspondence in this connection is referred to in Ex. U-20 which indicates that the management did concede the fact that explosives are not used in the extraction of pillars and it was there found that the conditions mentioned in the aforesaid letter of the Chief Inspector of mines had been fulfilled so as to entitle the miners to claim

hand-cut rates for the work done in depillaring section. Any attempt now on the part of the management to speak to the contrary or to deny the claim should not succeed.

22. The Korea Notification itself has made the distinction between machine cut coal and hand cut coal and in the latter case a higher rate has been provided. Even under the Colliery Award different rates have been prescribed for hand-cut and machine-cut coal and the stand taken by the management in the present case to justify the payment at the lower rate is hardly justifiable. It is thus clear that in the depillaring areas the management was bound to pay the hand cutting rate, *viz.* Re. 1/- per 25 cft. and not machine cutting rate, *viz.* Re. 1/- per 100 cft. as per Korea Award and the workers concerned are entitled to the difference between the two. It appears that in the beginning the company used to show total production figures and since about 4/5 years it has been showing separate figures for de-pillaring coal in respect of North & South Jhagrakhand Collieries. In the cases where such separate figures are available, the workers concerned shall be paid differences which they are entitled to at the hand-cut rate and looking to the fact that out of total production, depillaring comes to about 50% of the total production both in North & South Jhagrakhand Collieries, where such separate figures are not available, 50% shall be taken as the depillaring coal for the purposes of making the payment at the said rate during the period the Korea Award remained in operation, *i.e.* from 1st November 1947 to 26th May 1956. The management shall further pay Rs. 200/- by way of costs to the workmen.

Dated: 30th March 1959.

(Sd.) P. D. VYAS,
Judge,
Central Government Industrial Tribunal,
Nagpur at Bombay.

[No. LRII/2(40)/55.]
P. M. MENON, Secy.